



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2015-0732]

RIN 1625-AA87

Security Zone, Delaware River; Philadelphia, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing security zones in the waters of the Delaware River and Schuylkill River in Philadelphia, PA. These zones are intended to restrict vessels from portions of the Delaware River and Schuylkill River during the 2015 Papal visit on September 26, 2015, and September 27, 2015. During the enforcement period, no unauthorized vessels or people will be permitted to enter or move within the security zones without permission from the Captain of the Port or his designated representative. This security zone is necessary to provide security for Pope Francis.

DATES: This rule will be effective and enforced from 6:00 a.m. on September 25, 2015, to 12:00 p.m. on September 28, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2015-0732]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215)271-4851, e-mail Brennan.P.Dougherty@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202)366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
COTP	Captain of the Port

#### A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule

without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the final details for Pope Francis' arrival and departure were not known until August 4, 2015. This late notification precludes the Coast Guard from publishing a NPRM while meeting the security zone's objectives of protecting Pope Francis and accompanying high-ranking government officials, and protect against sabotage or terrorist attacks to human life, vessels, mariners, and waterfront facilities at or near this event.

For similar reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the Federal Register.

#### B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6 and 160.5; and Department of Homeland Security Delegation No.

0170.1., which collectively authorize the Coast Guard to establish security zones.

These temporary security zones are necessary to provide for the security of Pope Francis and accompanying high-ranking government officials, and protect against sabotage or terrorist attacks to human life, vessels, mariners, and waterfront facilities at or near this event.

#### C. Discussion of the Final Rule

On September 26, 2015, Pope Francis and accompanying high-ranking government officials will be arriving in Philadelphia, PA. The Coast Guard is establishing several security zones in portions of the Delaware River and Schuylkill River in Philadelphia, PA.

The first security zone will be enforced from September 26, 2015, at 6:00 a.m. until September 28, 2015, at 12:00 p.m. and includes all the waters of the Delaware River from the New Jersey shore line, to the Pennsylvania shore line, beginning at the east end of Little Tinicum Island extending in a Northeasterly direction and ending at the mouth of the Schuylkill River;

The second security zone will be enforced from September 25, 2015, at 6:00 a.m. until September 28, 2015, at 12:00 p.m. and includes all the waters of the Schuylkill River inside a

boundary described as originating from the South 34th street Bridge north and ending at the West Girard Avenue Bridge.

The third security zone will be enforced from September 25, 2015, at 6:00 a.m. until September 28, 2015, at 12:00 p.m. and includes all the waters of the Schuylkill River inside a boundary described as originating from the mouth of the Schuylkill River and ending 500 yards north of the George C. Platt Memorial Bridge.

The fourth security zone will be enforced from September 26, 2015, at 6:00 a.m. until September 28, 2015, at 12:00 p.m. and includes all waters of the Delaware River adjacent to the Ben Franklin Bridge bounded in the East by the New Jersey shoreline, bounded in the West by the Pennsylvania shoreline, bounded in the South by Latitude  $39^{\circ}56'31''N$ , and bounded in the North by Latitude  $39^{\circ}57'23''N$ .

The fifth security zone will be enforced on September 27, 2015, from 9:00 a.m. until 2:00 p.m. and includes all water of the Delaware River adjacent to Curran-Fromhold Correctional Facility, in North-East Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline at latitude  $40^{\circ}00'54''N$ , longitude  $075^{\circ}01'00''W$ ; thence to latitude  $40^{\circ}01'15''N$ , longitude  $075^{\circ}01'19''W$ , and bounded on the North by a line running east to west from points along the shoreline at latitude  $40^{\circ}01'58''N$ ,

longitude 074°59'24"W; thence to latitude 40°02'15"N, longitude 074°59'55"W.

Access to these security zones will be restricted during the specified date and time period. Only vessels or people specifically authorized by the Captain of the Port, Delaware Bay or his designated representative may enter or remain in the regulated area.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

Although this regulation will restrict access to the security zones, the effect of this rule will not be significant because: this rule will only be enforced for a limited duration; vessels may be granted permission to transit through the zone on

a case-by-case basis; and the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. These security zones will not have a significant economic impact on a substantial number of small entities for the reasons stated under paragraph D.1., Regulatory Planning and Review.

## 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person

listed in the FOR FURTHER INFORMATION CONTACT section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities



The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to

minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of Homeland

Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a security zone and is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are not required.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T05-0732 to read as follows:

§ 165.T05-0732 Security Zone, Delaware River; Philadelphia, PA.

(a) Locations and enforcement periods. The Coast Guard is establishing security zones in portions of the Delaware River and Schuylkill River in Philadelphia, PA.

(1) The first security zone will be enforced from September 26, 2015, at 6:00 a.m. until September 28, 2015, at 12:00 p.m. and includes all the waters of the Delaware River from the New Jersey shore line, to the Pennsylvania shore line, beginning at the east end of Little Tinicum Island extending in a Northeasterly direction and ending at the mouth of the Schuylkill River;

(2) The second security zone will be enforced from September 25, 2015, at 6:00 a.m. until September 28, 2015, at 12:00 p.m. and includes all the waters of the Schuylkill River inside a boundary described as originating from the South 34th street Bridge north and ending at the West Girard Avenue Bridge.

(3) The third security zone will be enforced from September 25, 2015, at 6:00 a.m. until September 28, 2015, at 12:00 p.m. and includes all the waters of the Schuylkill River inside a boundary described as originating from the mouth of the Schuylkill River and ending 500 yards north of the George C. Platt Memorial Bridge.

(4) The fourth security zone will be enforced from September 26, 2015, at 6:00 a.m. until September 28, 2015, at

12:00 p.m. and includes all waters of the Delaware River adjacent to the Ben Franklin Bridge bounded in the East by the New Jersey shoreline, bounded in the West by the Pennsylvania shoreline, bounded in the South by Latitude 39°56'31"N, and bounded in the North by Latitude 39°57'23"N.

(5) The fifth security zone will be enforced on September 27, 2015, from 9:00 a.m. until 2:00 p.m. and includes all water of the Delaware River adjacent to Curran-Fromhold Correctional Facility, in North-East Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline at latitude 40°00'54"N, longitude 075°01'00"W; thence to latitude 40°01'15"N, longitude 075°01'19"W, and bounded on the North by a line running east to west from points along the shoreline at latitude 40°01'58"N, longitude 074°59'24"W; thence to latitude 40°02'15"N, longitude 074°59'55"W.

(b) Regulations. The general security zone regulations found in 33 CFR part 165 subpart C apply to the security zones created by this section.

(1) All persons and vessels are prohibited from entering these security zones, except as authorized by the Coast Guard Captain of the Port or his designated representative.

(2) To seek permission to transit any of these security zones, the Captain of the Port or his designated representative

can be contacted via Sector Delaware Bay Command Center (215) 271-4940 or on VHF-FM marine band radio channel 16 (156.8 MHz).

(3) Vessels granted permission to transit through the security zones must do so in accordance with the directions provided by the Captain of the Port or his designated representative to the vessel.

(4) This section applies to all vessels wishing to transit through the security zones except vessels that are engaged in the following operations:

- (i) Enforcing laws;
- (ii) Servicing aids to navigation; or
- (iii) Emergency response vessels.

(5) No person or vessel may enter or remain in a security zone without the permission of the Captain of the Port;

(6) Each person and vessel in a security zone shall obey any direction or order of the Captain of the Port;

(c) Definitions in this section—(1) Captain of the Port means the Commander, Coast Guard Sector Delaware Bay, or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) Designated representative means any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Delaware Bay to assist in enforcing the security zone described in paragraph (a) of this section.

(d) Enforcement officials. The U.S. Coast Guard may be assisted by Federal, State, and local agencies in the patrol and enforcement of the zone.

Dated: September 8, 2015

B. A. Cooper,  
Captain, U. S. Coast Guard  
Captain of the Port, Delaware Bay  
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9/21/2015]